

CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED

LAURA A. AUSTIN, CLERK

DEPUTY CLERK

)

)

)

)

)

)

)

)

)

)

)

Even if these were meritorious grounds for dismissal, the motion is untimely. Rebecca Neal previously filed a motion to dismiss on similar grounds on July 2, 2024. ECF No. 157. That motion also cited discovery issues and claimed that in filing the case, “the Plaintiff [was] acting on behalf of other parties to silence the Neals.” Id. at 3. The court construed that motion as a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). ECF No. 160 at 3 (stating that the court would liberally construe pro se filings and citing Erickson v. Pardus, 551 U.S. 89, 94 (2007)). The court denied that motion to dismiss as untimely, noting that “the opportunity to file a motion to dismiss under Rule 12(b) in the Neal Action has long since passed, given that the Neals filed their answer to the complaint over a year ago.” Id. at 4 (citing Fed. R. Civ. P. 12(b) (“A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed.”); Defs.’ Answer, ECF Nos. 5, 6 (filed Feb. 15, 2023)). For the same reasons, the currently pending motion to dismiss, ECF No. 179, is **DENIED**.

It is **SO ORDERED**.

Entered: February 9, 2025



Mike Urbanski
Senior U.S. District Judge
2025.02.09 11:46:46
-05'00'

Michael F. Urbanski
Senior United States District Judge